

REMARKS

Reconsideration and allowance of the subject application are respectfully solicited.

Claims 1, 3 through 10, and 12 through 20 are pending, with Claims 1 and 10 being independent. Claims 2, 11, and 20 have been cancelled without prejudice. Claims 1, 3 through 5, 10, and 12 through 14 have been amended. It will be appreciated that Claims 1 and 10 have been amended to (a) include the features of Claims 2 and 11, respectively, and (b) to recite a new feature “data integration means” (Claim 1) or “data integration step” (Claim 10).

Claims 1 through 20 were variously rejected under 35 U.S.C. §§ 102 and 103 over US 2001/0048770 A1 (Maeda) in view of newly-cited US 6,393,393 B1 (Kawahara), and further in view of JP-A 2001-230947 (“JP ‘947”). All rejections are respectfully traversed.

Claim 1 recites, *inter alia*, setting an audio encoding method to increase a bit amount of the audio data corresponding to the scene exhibiting the high degree of significance in response to the setting by the image encoding setting means, in combination with integrating, in a predetermined order, data of the frame images encoded with the high image quality in accordance with the setting by the image encoding setting means and encoded audio data encoded by the audio data encoding means so as to increase the bit amount of the audio data corresponding to the period of the frame images encoded with high image quality.

Claim 10 recites, *inter alia*, setting an audio encoding method to increase a bit amount of the audio data corresponding to the encoded image data in which the image quality is improved, in response to the setting in the image encoding setting step, in combination with integrating, in a predetermined order, data of the frame images encoded with the high image quality in accordance with the setting by the image encoding setting step and encoded audio data encoded by the audio data encoding step so as to increase the bit amount of the audio data corresponding to the period of the frame images encoded with

high image quality.

However, Applicant respectfully submits that none of Maeda, Kawahara, and JP '947, even in the proposed combination, assuming, *arguendo*, that the documents could be combined, discloses or suggests at least the above-discussed combinations of claimed features as recited, *inter alia*, in Claims 1 and 10.

Applicant respectfully submits that Maeda discloses, e.g., that when MPEG4-encoded data is input, texture data and object shape data of the input MPEG4-encoded data are decoded, while encoded audio data included therein is stored in a buffer without being decoded (e.g., Fig. 24), and when the decoded texture data is encoded in accordance with the JPEG2000 method, data of a background object set as an ROI is bit-shifted to upper bit planes so that the encoded audio data of one frame, stored in the buffer, is stuffed into blank fields generated by the bit shift process (i.e., the blank field is merely filled with the already-encoded audio data) — in other words, Maeda merely shows, e.g., that bit plane composition unit 13 merely stuffs the buffered already-encoded audio data of one frame into encoded moving image data of JPEG2000, i.e., merely stuffing into a blank space produced due to upper-bit shift (i.e., merely filling a vacant space with audio data). Accordingly, Applicant respectfully submits that Maeda is completely silent at least as to audio encoding as claimed including setting an encoding method with increasing a bit amount in response to the setting, let alone such encoding in combination with integrating as claimed.

The Official Action acknowledges deficiencies of Maeda and thus relies upon Kawahara. Applicant respectfully submits that Kawahara relates to, e.g., MPEG audio data, and shows, e.g., changing code amount allocation to provide high quality to some of sub bands — but Kawahara is ***completely silent*** as to any relation between encoding the MPEG audio data and an image (i.e., a moving image) and thus fails to disclose or suggest

at least the above-discussed claimed features including setting an encoding method with increasing a bit amount *in response to the setting*. Thus, even if Maeda and Kawahara could be combined, Applicant submits that the combination would fail to disclose or suggest at least the above-discussed claimed features.

It is further respectfully submitted that there has been no showing of any indication of motivation in the cited documents that would lead one having ordinary skill in the art to arrive at such features.

The dependent claims are also submitted to be patentable because they set forth additional aspects of the present invention and are dependent from independent claims discussed above. Therefore, separate and individual consideration of each dependent claim is respectfully requested.

This Amendment After Final Rejection is an earnest attempt to advance prosecution and reduce the number of issues, and is believed to clearly place this application in condition for allowance. Furthermore, Applicant respectfully submits that a full appreciation of these amendments will not require undue time or effort given the Examiner's familiarity with this application. Moreover, this Amendment was not earlier presented because Applicant earnestly believed that the prior Amendment placed the subject application in condition for allowance. Accordingly, entry of this Amendment under 37 C.F.R. § 1.116 is respectfully requested.

Applicant submits that this application is in condition for allowance, and a Notice of Allowance is respectfully requested.

Applicant's undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our address given below.

Respectfully submitted,

/Daniel S. Glueck/
Attorney for Applicant
Daniel S. Glueck
Registration No. 37,838

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3800
Facsimile: (212) 218-2200

DSG/mcm

FCIS_WS 1579266v1